

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL ORIGINAL
FILE FILE

In the matter of)

AMENDMENT OF SECTION 73.202(b),)
TABLE OF ALLOTMENTS)
FM BROADCAST STATIONS)
(ESSEX, CALIFORNIA))

MM Docket 92-194
RM-8052

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Chief, Mass Media Bureau

COMMENTS AND COUNTERPROPOSAL

David A. Petrick, by his attorneys, hereby submits his Comments and Counterproposal in the above-captioned proceeding, pointing out that Essex, California, does not constitute a community which should be allotted a new FM channel, and that Channel 280B should instead be allotted to the community of Needles, California. In support thereof, the following is stated:

By Notice of Proposed Rule Making ("NPRM"), DA 92-1060, released September 8, 1992, the Chief, Allocations Branch, Mass Media Bureau, proposed to allot FM Channel 280B to Essex, California, as "that community's second local FM service." The NPRM contained no discussion of whether Essex actually is a community, perhaps due to the previous allotment of a channel to that location. A review of the matter reveals, however, that "Essex" is not identified in either the 1980 or 1990 U.S. Census. It also is not identified as a separate community in the Rand McNally Commercial Atlas. Moreover, the California Data Center, which maintains population statistics for the State of California, also does not list a community of Essex.¹

¹ Communications with the California Data Center resulted in the informal estimate that about 100 persons may reside in the area in question.

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It thus is apparent that any assumption that Essex is a community for allotment purposes is unsupported and erroneous.² Absent a further demonstration by the Petitioner that Essex somehow does constitute a community, the requested allotment of Channel 280B therefore must be denied even in the absence of a counterproposal to allot that channel elsewhere.

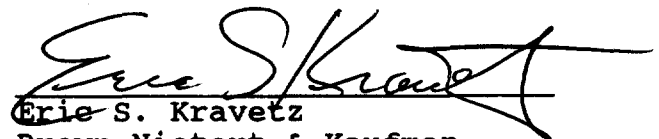
In this regard, David A. Petrick does hereby submit a counterproposal, requesting that Channel 280B be allotted to Needles, California, a growing community with a 1990 U.S. Census population of over 5,000 persons. As demonstrated in the attached Engineering Statement by Mr. Petrick's consulting engineer, such counterproposal satisfies all pertinent spacing standards, with the substitution of Channel 242A for Channel 280A at Bagdad, Arizona.

Should Channel 280B be allotted to Needles, California, Mr. Petrick will apply to construct a new FM broadcast station to operate on that channel and, upon grant of such application, will promptly construct and operate that station.

Respectfully submitted,

DAVID A. PETRIK

BY:



Eric S. Kravetz
Brown Nietert & Kaufman,
Chartered
1920 N Street, N.W., Suite 660
Washington, D.C. 20036
(202) 887-0600

His Attorneys

October 30, 1992
ESK:ESSEX:BJ

² That one channel nevertheless has been allotted to that location constitutes no reason to allot a second channel to that area, thereby compounding an earlier error.

EXHIBIT E-1 ENGINEERING STATEMENT

The information and data contained within these Engineering Exhibits were prepared on behalf of David A. Petrik in support of comments to petition for rule making, MM Docket No. 92-194, RM-8052.

I. COUNTERPROPOSAL

The above-reference petition for rule making has requested the allotment of FM Channel 280B to Essex, California, as the community's second local FM service. Through comments, David A. Petrik is counterproposing the use of Channel 280B at Needles, California, as its second local FM service.

Channel 280A has been proposed for allotment at Bagdad, Arizona, as the community's first FM channel in MM Docket No. 92-49, RM-7922. In order to allot Channel 280B to Needles, an alternate Class A channel is proposed for use in Bagdad, Arizona.

II. NEEDLES, CALIFORNIA

The community of Needles is located in the easternmost portion of San Bernardino County, near the Colorado River that divides California from Arizona. Currently, Needles has one commercial FM channel allotment, Channel 250C1, licensed to KWAZ(FM).

The results of the 1980 U.S. Census show that Needles has a population of 5,191 persons. The 1980 U.S. Census indicated a population of 4,120. Therefore, the population of Needles has increased 26 percent over the past decade. The Needles Chamber of Commerce presently estimates the population to be 6,000.

The United States Geological Survey centroid geographical coordinates of Needles are:

North Latitude: 34 degrees, 50 minutes, 36 seconds
West Longitude: 114 degrees, 36 minutes, 54 seconds

III. ALLOTMENT OF CHANNEL 280B TO NEEDLES

The proposed allotment of Channel 280B at Needles, California, requires a site restriction of 23.8 kilometers (14.8 miles) northwest of the Needles centroid to avoid short-spacing a vacant third adjacent channel Class C2 allotment at Lake Havasu City, Arizona. A reference site has

been identified that complies with the Commission's spacing requirements. The geographical coordinates of this site are:

North Latitude: 34 degrees, 59 minutes, 06 seconds
West Longitude: 114 degrees, 48 minutes, 37 seconds

From such a site, with Class B facilities, it is possible to place a requisite 70 dBμ or greater signal strength across Needles in compliance with §73.315(a). Table One demonstrates the spacing conditions that exist from the proposed Needles reference site. Exhibit E-2 depicts cartographically the fully spaced area to locate Channel 280B and the location of the specified reference site.

TABLE ONE ALLOCATION-PERTINENT STATIONS AND SPACING REQUIREMENTS OF §73.207 FM CHANNEL 280B NEEDLES, CALIFORNIA					
CALL LETTERS	CHANNEL / CLASS	NORTH LATITUDE	WEST LONGITUDE	ACTUAL DISTANCE	REQUIRED DISTANCE
KEYV	226-C	35° 58' 02"	115° 30' 06"	126. Km	35. Km
KZKE	277-A	35° 19' 26"	112° 45' 55"	190	69
KEDG	278-C	36° 00' 29"	115° 00' 20"	115	105
KJQY	279-B	32° 50' 21"	117° 14' 57"	328	169
ALLOC	279-C	31° 41' 00"	114° 29' 35"	368	215
KCKC	280-A	34° 14' 05"	117° 08' 23"	229	178
PRM (1)	280-A	34° 34' 52"	113° 12' 14"	154	178
PRM (2)	280-B	34° 44' 12"	115° 14' 48"	48	241
KRAJ	280-B1	35° 28' 39"	117° 41' 58"	269	211
KJUL	282-C	35° 58' 02"	115° 30' 06"	126	105
ALLOC	283-C2	34° 32' 54"	114° 11' 37"	74	74

(1) This proposed allotment of Channel 280A to Bagdad, Arizona, MM Docket 92-49, RM-7922, requires a substitution of Channel 242A.

(2) This is the proposed allotment of Channel 280B to Essex, California, MM Docket No. 92-194, RM-8052.

IV. ALLOTMENT OF CHANNEL 242A TO BAGDAD

To accomplish the allotment of Channel 280B to Needles, California, the pending petition to allot Channel 280A to Bagdad, Arizona, must be changed by substituting Channel 242A for Channel 280A at Bagdad. The geographical coordinates of the Bagdad reference site are:

North Latitude: 34 degrees, 34 minutes, 52 seconds
West Longitude: 113 degrees, 12 minutes, 14 seconds

Table Two tabulates the station records pertinent to the allotment of Channel 242A to Bagdad, Arizona. Exhibit E-3 shows the fully spaced area to locate Channel 242A with respect to Bagdad, Arizona.

TABLE TWO ALLOCATION-PERTINENT STATIONS AND SPACING REQUIREMENTS OF §73.207 CHANNEL 242A BAGDAD, ARIZONA					
CALL LETTERS	CHANNEL CLASS	NORTH LATITUDE	WEST LONGITUDE	ACTUAL DISTANCE	REQUIRED DISTANCE
KVYT	240-C	36° 50' 50"	113° 29' 28"	253. Km	95. Km
KZGL	240-C1	34° 41' 14"	112° 07' 00"	100	75
KLPX	241-C	32° 14' 56"	111° 06' 59"	323	165
KSIQ	241-B	33° 00' 30"	115° 31' 28"	277	113
KKLZ	242-C	36° 00' 29"	115° 00' 20"	228	226
PRM	242-C	31° 01' 36"	114° 49' 46"	423	270
ALLOC	243-B	31° 51' 52"	112° 41' 30"	305	170
PRM	243-B1	34° 39' 44"	116° 21' 02"	289	96
ALLOC	243-A	32° 31' 05"	114° 54' 58"	279	105
KRFM	243-C	34° 12' 20"	109° 56' 26"	303	165
PRM	244-C2	34° 29' 02"	114° 19' 18"	103	55
KPSN	245-C	33° 20' 03"	112° 03' 36"	174	95
KMJK	295-A	33° 27' 01"	112° 35' 58"	137	10
KVVA-FM	296-C3	33° 26' 48"	111° 37' 32"	193	12

V. MINIMUM SPACING REQUIREMENTS

Tables One and Two list the nearest authorized and proposed facilities and allocations currently on file with the required distance separations for Channels 280B and 242A, respectively. For clarity, facilities that are greater than 200 kilometers beyond the minimum required separations are not shown.

As required by §73.207 all minimum distance separation requirements are met from the hypothetical reference sites listed previously. All distances were computed by the methods outlined in §73.208(c) of the Commission's Rules and were rounded to the nearest kilometer in accordance with §73.208(c)(8).

VI. CONCLUSIONS

From this study it has been determined that the FM Table of Allotments of §73.202(b) of the Commission's Rules may be amended within technical compliance of all applicable Rules, and therefore, David A. Petrik, respectfully requests the following changes to the Table:

<u>PRESENT</u>	
<u>CITY/STATE</u>	<u>CHANNEL</u>
Needles, California	250C1
Essex, California	255B, 280B (PRM)
Bagdad, Arizona	280A (PRM)

<u>PROPOSED</u>	
<u>CITY/STATE</u>	<u>CHANNEL</u>
Needles, California	250C1, 280B
Essex, California	255B
Bagdad, Arizona	242A

Upon allotment of Channel 280B to Needles, California, David A. Petrik promptly will file an application for construction permit to build a new FM broadcast station on Channel 280B to serve Needles, California.

It is believed that all methods employed in making the determinations contained within this Engineering Statement were in accordance with applicable F.C.C. Rules and Regulations and good engineering practice.

Respectfully Submitted,

Lawrence L. Morton, P.E.
Consulting Engineer to David A. Petrik
October 28, 1992

Lambert Azimuthal Equal-Area

7' 30" Graticule Spacing

CENTER OF MAP:

N LAT 34 59' 00.00"

W LON 114 48' 30.00"

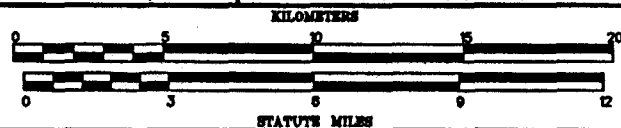
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EXHIBIT E-2

AREA TO LOCATE CHANNEL 280B

NEEDLES, CALIFORNIA

David A. Petrik



LAWRENCE L. MORTON ASSOCIATES
Telecommunications Engineers
Mesa Oaks, California

Sportsman Paradise County Campground

Davis Dam

Laughlin

Bullhead City

Hardyville Mill (Ruins)

Riviera

Soto Ranch

Miltown (Site)

NEEDLES

Fivemile Landing

Parker Junction

KJUL(FM) 105 KM RADIUS

KEDG(FM) 105 KM RADIUS

CHANNEL 280B NEEDLES REFERENCE SITE

FULLY SPACED AREA TO LOCATE CHANNEL 280B

Arrowhead Junction

Bonnyack

Ibis

Klinefelter

Java

South Pass

Mountain Spring Camp

LAKE HAVASU CITY CHANNEL 283C2 74 KM RADIUS

Lambert Azimuthal Equal-Area

7" 30" Graticule Spacing

CENTER OF MAP:

N LAT 34 34' 52.00"

W LON 113 12' 14.00"

Scale 1 : 300,000

EXHIBIT E-3
AREA TO LOCATE CHANNEL 242A
BAGDAD, ARIZONA
David A. Petrik



LAWRENCE L. MORTON ASSOCIATES
Telecommunications Engineers
Mesa Oaks, California

o Wikieup

o Hopewell Ranch

o Meduele Ranch

Rohr Ranch

Leivas Ranch

o Madril Ranch

o Greenwood

Bozarth Ranch

KKLZ(FM) 228 KM RADIUS

BAGDAD

S. H. Ranch

Muleshoe Ranch

Apron Crossing

Olea Ranch

FULLY SPACED AREA TO LOCATE CHANNEL 242A

Santa Maria Ranch

KZGL(FM) 75 KM RADIUS

Bar Thirtyseven Ranch

Ranger Guard Station

o Camp Wood

Backdoor Ranch

Dumbbell Ranch

Willow Spring

Yolo Cabin

Yava

Grand View

AFFIDAVIT

State of California

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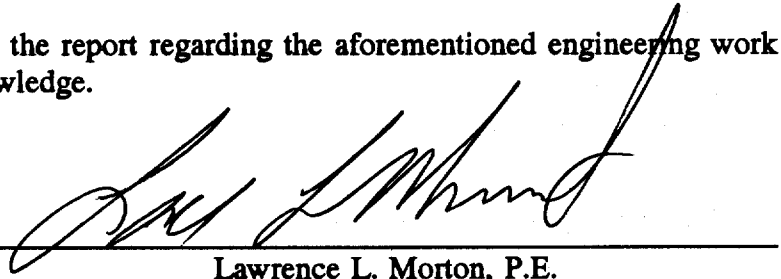
County of Orange

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Lawrence L. Morton, being first duly sworn upon oath, deposes and says:

- That he is a qualified engineer,
- That he is a Registered Professional Engineer in the State of California,
- That he is a member of the Association of Federal Communications Consulting Engineers,
- That his qualifications are a matter of record with the Federal Communications Commission,
- That he has prepared many broadcast applications and engineering exhibits that have been filed with and granted by the Federal Communications Commission,
- That he has carried out such engineering work and that the results thereof are attached hereto and form part of this affidavit, and
- That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge.

Date: October 28, 1992



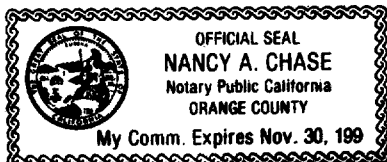
Lawrence L. Morton, P.E.

On October 28, 1992, before me, Nancy A. Chase, a Notary Public, in and for the State of California, personally appeared Lawrence L. Morton known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

My Commission expires 11/30/94



Notary Public



CERTIFICATE OF SERVICE

I, Beverles Jenkins, a secretary in the law firm of Brown, Nietert & Kaufman, Chartered, do hereby certify that on this 30th day of October, 1992, I caused a true copy of the foregoing "COMMENTS AND COUNTERPROPOSAL" to be sent via U.S. Mail, postage pre-paid to the person listed below:

Peter Gutmann, Esquire,
PEPPER & CORAZZINI
1776 K Street, N.W.
Suite 200,
Washington, D.C. 20006.


Beverles Jenkins